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Resolution No.	11-2037
Introduced:	May 29, 1990
Adopted:	May 29, 1990

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: County Council

Subject: Approval, Under Quadrennial Review, Executive Regulation 53-89, Use of Public, Educational, and Government (PEG) Cable TV Channels

Background

1. Executive Regulation 53-89, establishes the rules and procedures under which a Cable Television Franchisee or a Public, Educational, or Government (PEG) organization is permitted to use a vacant cable television channel designated for PEG use.
2. Executive Regulation 53-89, formally numbered 6-88, has not been changed.
3. The County Executive transmitted Executive Regulation 53-89 to the County Council under Method (1) for quadrennial review as required by Sections 2A-21 and 41A-13 of the Montgomery County Code.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

Executive Regulation 53-89, Use of Public, Educational, and Government (PEG) Cable TV Channels, according to the quadrennial requirement.

This is a correct copy of Council action.



Kathleen A. Freedman, CMC
Secretary of the Council



Executive Regulation

Office of the County Executive
Montgomery County, Maryland

Subject	USE OF PUBLIC, EDUCATIONAL, & GOVERNMENT (PEG) CABLE TV CHANNELS	Number	53-89
Originating Department	OFFICE OF THE COUNTY EXECUTIVE	Effective Date	June 28, 1990

Montgomery County Regulations on:

USE OF PUBLIC, EDUCATIONAL, & GOVERNMENT (PEG) CABLE TV CHANNELS
OFFICE OF THE COUNTY EXECUTIVE

Issued by: County Executive
Regulation No.

Authority: Code Section: 8A-18(a)(6)
Supercedes: Executive Regulation No. 6-88
Council Review: Method (1) under Code section 2A-15
Register Vol. 6 No. 9

Effective Date: June 28, 1990
Comment Deadline: September 30, 1989

SUMMARY: Renews an existing regulation which establishes rules and procedures under which a cable television franchisee or a public, educational, or government (PEG) organization is permitted to use a vacant cable television channel designated for PEG use.

ADDRESS COMMENTS TO: Cable Management Section
Office of the Chief Administrative Officer
Executive Office Building, 4th Floor
101 Monroe Street
Rockville, Maryland 20850

STAFF CONTACT: Kay Stevens, telephone 217-2850

BACKGROUND INFORMATION:

1. Section 531(d) of the federal Cable Communications Policy Act of 1984 requires that the franchising authority prescribe rules and procedures under which the cable operator is permitted to use public, educational, or government (PEG) channel capacity for the provision of other services if such channel capacity is not being used for PEG purposes.



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2. Section 30(B)(1) of the Franchise Agreement states the following regarding the assignment of PEG channels:

"Use of these reserve channels shall be assigned by the County and shall be activated by the Franchisee within 30 calendar days of the County's request."

The Franchise Agreement does not prescribe the rules and procedures under which the Franchisee may apply for use of unused PEG channels.

3. Executive Regulation #6-88, approved by the County Council on August 2, 1988, established procedures for assigning unused PEG channels.
4. Executive Regulation #6-88 is proposed for readoption under the County's quadrennial review requirements of Chapter 2A-21 of the Montgomery County Code.



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REGULATION

I. FRANCHISEE USE OF PEG CHANNELS

In accordance with Section 531(d) of the federal Cable Communications Policy Act of 1984, the franchisee may request permission from the franchisor to use on an interim basis any unused public, educational, or government access (PEG) channel(s), either on the subscriber network or the institutional network, provided the franchisee complies with the following requirements:

- a. The franchisee must fully utilize all of its channel capacity prior to applying to the franchisor for use of any PEG channel.
- b. The franchisee must submit an application to the franchisor for the use of PEG channels stating:
 - i. the number of PEG channels requested;
 - ii. the period of time per day per channel requested for use;
 - iii. the duration of franchisee use for each requested PEG channel;
 - iv. the intended use of each requested PEG channel;
 - v. the current usage and planned usage (for the duration of the requested PEG channel use) of all of the franchisee's channel capacity;
 - vi. the reasons why utilizing a PEG channel is more desirable than substituting the proposed programming on one of the franchisee's channels, or combining the proposed programming in a shared manner on one of the franchisee's channels;
 - vii. how use of the PEG channel(s) for the proposed purpose(s) serves the public interest.

The franchisee must also provide any other information requested by the franchisor in reference to the franchisee's application. The franchisee must submit the application in as many copies as the franchisor determines necessary for distribution to appropriate parties.



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- c. If the franchisee is requesting use of one or more of the channels designated for the City of Rockville, the City of Takoma Park, or the Montgomery County Chapter of the Maryland Municipal League (hereinafter referred to as the Municipal League), the application specified in b above must also be filed with Rockville, Takoma Park, and/or the Municipal League (whichever are affected) for their action. The County may not grant the franchisee interim use of the Rockville, Takoma Park, or the Municipal League channel if the affected municipality or the Municipal League is using its channel or has plans to do so within 12 months of the application filing date.
- d. The franchisor must provide 30 days public notice in a newspaper of general circulation in the County of the franchisee's application under this section, make the application available for public inspection, and permit the filing of written public comments within such time period. The franchisor may schedule a public hearing as it deems necessary.
- e. The County Executive must make a decision on the franchisee's request within 90 days of receipt of a complete application.
- f. The franchisor may approve, approve with conditions, or deny the franchisee's request for use of PEG channels based on, but not limited to, the following considerations:
 - i. Any identified plans for future use of any unused PEG channels within 12 months of the application filing date;
 - ii. Franchisor determination whether such use is in the public interest;
 - iii. The comments of any affected municipality or the Municipal League; or
 - iv. Any other relevant information raised during the application review process.
- g. If during the term in which a PEG channel is assigned to the franchisee for interim use, the franchisor determines that the PEG channel is needed to accommodate PEG requirements, the franchisor must issue a written notice to the franchisee identifying the PEG channel(s) it proposes to reclaim, specifying the planned use of the



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channel(s) and the date when the franchisor proposes to reclaim the channel(s), which date must be no earlier than 120 days from the date of the franchisor's notice. The franchisee must relinquish the use of any such PEG channel on the date specified by the franchisor.

- h. At the expiration of the term under which any PEG channel is assigned to the franchisee for interim use, the franchisee may submit another application for its use. This application will be considered by the franchisor as a new application consistent with all the provisions of this Regulation.

II. PEG AGENCY OR ORGANIZATION USE OF PEG CHANNELS

- a. A public, educational, or governmental agency or organization desiring use of an unused PEG channel not previously assigned by Section 30 (B) of the Franchise Agreement must also request permission from the franchisor by submitting an application containing the following information:
- the number of PEG channels requested;
 - the period of time per day per channel requested for use;
 - the intended use of the requested PEG channel(s);
 - how use of the PEG channel(s) for the proposed purpose(s) serves the public interest.
- b. The franchisor may approve, approve with conditions, or deny the public, educational, or governmental agency's request for use of PEG channels based on, but not limited to, the following considerations:
- any identified plans for future use of any unused PEG channels
 - franchisor determination whether such use is in the public interest;
 - consistency with any County-Municipal Agreements; or
 - any other relevant information raised during the application review process.
- c. The requesting PEG agency or organization must also provide any other information requested by the franchisor in reference to the application. The requesting agency must submit the application in as many copies as the franchisor determines necessary for distribution to appropriate parties.



Executive Regulation

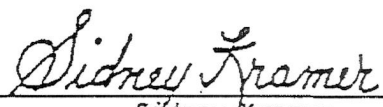
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- d. The County Executive must make a decision on the PEG Agency or organization's request within 90 days of receipt of a complete application.

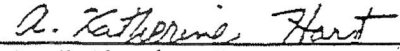
III. Effective Date

This regulation becomes effective 30 days after approval by the County Council.



Sidney Kramer
County Executive

Approved as to Form and Legality:
Office of the County Attorney

By:  -6-
A. Katherine Hart
Senior Assistant County Attorney

Date: 10/10/89